



W.P.No.42748 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.42748 of 2016
and
W.M.P.No.36670 of 2016

S.Ramanathan

... Petitioner

Vs.

1. Tamil Nadu State Transport Corporation (Salem) Ltd.,
Rep. by the Managing Director,
12-A Ramakrishnan Road,
Salem - 636 007.
2. The General Manager,
Tamil Nadu State Road Transport Corporation (Salem) Ltd.,
12-A Ramakrishnan Road,
Salem - 636 007.
3. The Branch Manager,
Tamil Nadu State Road Transport Corporation (Salem) Ltd.,
Thammampatti Branch,
Salem Division - I ,
Salem.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus, directing the respondents forthwith provide the petitioner with a suitable alternative job with the same pay scale and benefits.

For petitioner	:	Ms.Ramapriya Gopalakrishnan
For respondents	:	Mr.R.Babu



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ORDER

This writ petition is filed seeking a direction to the respondents to provide a suitable alternative job with the same pay scale and benefits.

2. The learned counsel for the petitioner submitted that the following facts:

2.1. The petitioner was working as a Senior Driver in the respondent Corporation in Salem Division, Thammampatti Branch for the last 28 years with employment number as DR4800.

2.2. When he was driving a town bus in route 30 (TN 30 N 0036) on the Athur to Thammampatti route at about 10.00p.m. he stopped the bus and while crossing the road a motor cycle bearing registration No.TN 77 3683 came in a rash and negligent manner and hit the petitioner resulting in severe injuries to the petitioner. His left leg and left shoulder got fractured and his right wrist and left side of his forehead were also injured. He was admitted as an emergency case in Athur hospital. At about 12.00 p.m. his condition became critical and he was shifted to Salem Government General Hospital



and the petitioner underwent a surgery in his left leg and left shoulder. A rod and four bolts were inserted in his left leg.

2.3. On account of the said accident the petitioner suffered locomotor disability and movement of his left leg and hands were restricted and hence he could not press the clutch with his left leg and change the gear using his left hand and thereby, he cannot drive the vehicle.

3. The learned counsel for the petitioner submitted that the respondents are required to provide alternative employment to the petitioner as per the Section 2(o) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

4. At the time of admission, this Court has referred the petitioner to the Medical Board and the Board has given an opinion that the petitioner has sustained 40% of locomotory disability. Considering the same, the petitioner cannot be allowed to work as a Driver of a passenger vehicle.

5. Counter affidavit has not been filed by the respondents.



6. However, it is reported by the learned counsel for the respondent Corporation that subsequent to filing of this writ petition the petitioner was provided alternative employment as a Security Guard and working in the same post till date.

7. It is further submitted by the learned counsel for the respondent Corporation that the petitioner is getting the salary of the Senior Driver and his pay is being protected.

8. The learned counsel for the petitioner expressed her apprehension that the respondent Corporation may shift the petitioner from one place to another or accommodate him as a watchman. Further, the petitioner was due to retire on 30.06.2024.

9. On the other hand, the learned Counsel for the respondent Corporation assured that the Department will neither withdraw the petitioner's employment nor shift him into any other alternative post.



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10. Heard both sides and perused the materials available on record.

11. Recording the submission of the learned counsel for the respondent Corporation, this writ petition is disposed of directing the respondents to continue to provide the petitioner the same post of Security Guard until his retirement and provide him the same scale of pay as that of the Senior Driver, as per first proviso to Section 2a of the Rights of Persons with Disabilities Act, 2016, and also provide all the terminal benefits as per the procedure. Connected M.Ps. are closed. Costs made easy.

09.01.2024

vca

To:

1. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
12-A Ramakrishnan Road,
Salem - 636 007.
2. The General Manager,
Tamil Nadu State Road Transport Corporation (Salem) Ltd.,
12-A Ramakrishnan Road,
Salem - 636 007.



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DR.N.NAGARJUN.J.,

vca

3. The Branch Manager,
Tamil Nadu State Road Transport Corporation (Salem) Ltd.,
Thammampatti Branch,
Salem Division - I ,
Salem.

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